

FACTSHEET

TITLE: **ORDINANCE APPROVING AN EXCHANGE OF LAND**, requested by Lincoln Electric System, consisting of approximately 3.63 acres owned by the City of Lincoln for 3.94 acres of land in order to relocate an LES substation on property generally located at 91st Street and Highway 2.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan (**Comprehensive Plan Conformance No. 03000**).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 2/05/03
Administrative Action: 2/05/03 (anticipated)

RECOMMENDATION: The Planning Commission is scheduled to hold public hearing and take action on February 5, 2003, and a report of the Planning Commission action will be submitted to Council prior to February 10, 2003.

FINDINGS OF FACT:

1. This is a request by Lincoln Electric System (L.E.S.) to exchange a 3.94 acre parcel generally located west of the intersection of South 91st Street and Highway 2, for an approximately 3.63 acre parcel located approximately 750' to the west. (See Letters, p.6-11).
2. The properties are being exchanged to allow placement of the substation at the southeast edge of a future commercial area, instead of in the middle of it thereby enhancing the compatibility of the substation with the future commercial area. The Southeast Lincoln/Highway 2 Subarea Plan calls for open space along Yankee Hill Road adjacent to this site. L.E.S should work with neighboring property owners and the Village of Cheney to provide landscaping in the open space to help buffer the impact of the substation upon surrounding residential properties.
3. The staff conclusion and recommendation to find the proposed land exchange to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3.
4. The Planning Commission is scheduled to hold a public hearing and take action on this proposed land exchange on February 5, 2003. A report of the Planning Commission action will be submitted to the City Council prior to February 10, 2003.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: January 27, 2003

REVIEWED BY: _____

DATE: January 27, 2003

REFERENCE NUMBER: FS\CC\2003\CPC.03000

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Comprehensive Plan Conformance #03000

DATE: January 22, 2003

SCHEDULED PLANNING COMMISSION MEETING: February 5, 2003

PROPOSAL: Finding that the exchange of land for a proposed substation is in conformance with the Comprehensive Plan.

LAND AREA: Approximately 3.94 acres.

CONCLUSION: This exchange of land conforms to the Comprehensive Plan.

<u>RECOMMENDATION:</u>	Conforms to the Comprehensive Plan
-------------------------------	------------------------------------

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

LOCATION: Southwest of the intersection of Highway 2 and South 91st Street.

OWNER: City of Lincoln d/b/a Lincoln Electric System
1040 O Street
Lincoln, NE 68508
475-4211

**CONTACT/
APPLICANT:** Charles Humble, Attorney for Lincoln Electric System
Erickson & Sederstrom, P.C.
301 South 13th Street, Ste. 400
Lincoln, NE 68508
476-1000

EXISTING ZONING: AG Agricultural and AGR Agricultural Residential

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North:	Undeveloped	AGR Agricultural Residential
South:	Agriculture, Residential	AG Agricultural
East:	Undeveloped	AG Agricultural
West:	Agriculture, Rail Road	AG Agricultural

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F25 - The 2025 Comprehensive Plan designates this property for commercial uses.

Page F81 - Guiding Principles - Lincoln Electric System will be the sole electric utility within the City of Lincoln.

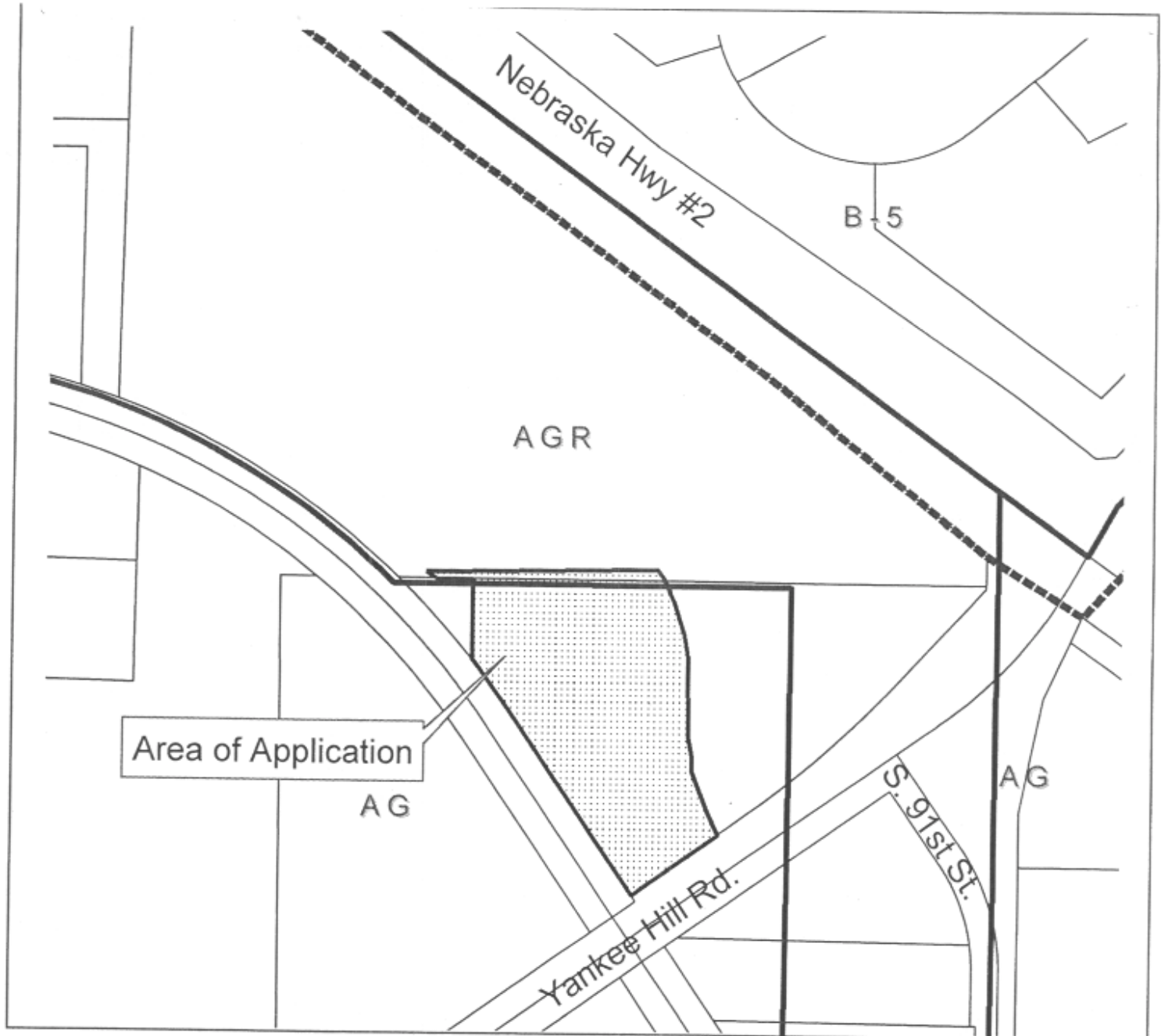
Page 33 of the Southeast Lincoln/Highway 2 Subarea Plan, Section V (C) Future Needs - "LES owns land for a substation site near South 87th Street and 1/4 mile south of Highway 2 which is in the area designated for commercial use in the subarea plan. The 2000-2006 Capital Improvement Program designates that LES will build this substation in Fiscal Year 2003 - 2004."

ANALYSIS:

1. This is a request by Lincoln Electric System (L.E.S.) to exchange a 3.94 acre parcel generally located west of the intersection of South 91st Street and Highway 2, for an approximately 3.63 acre parcel located approximately 750' to the west.
2. The properties are being exchanged to allow placement of the substation at the southeast edge of a future commercial area, instead of in the middle of it thereby enhancing the compatibility of the substation with the future commercial area.
3. The Comprehensive Plan calls for L.E.S. be the sole electric utility provider for Lincoln. The Plan intends that new utility infrastructure be built to keep pace with growth and demand.
4. There has been significant growth in the southeast part of the city, including the regional shopping center, Appian Way, north across Highway 2 from this site. Locating a substation in this area will allow L.E.S. to meet the need for additional service in this growing part of the city.
5. The Southeast Lincoln/Highway 2 Subarea Plan calls for open space along Yankee Hill Road adjacent to this site. L.E.S should work with neighboring property owners and the Village of Cheney to provide landscaping in the open space to help buffer the impact of the substation upon surrounding residential properties.
6. Public facilities like this substation should be sited on property zoned P - Public. The applicant should petition to change the zoning on this site from AG and AGR to P as soon as possible.

Prepared by:

Brian Will
Planner



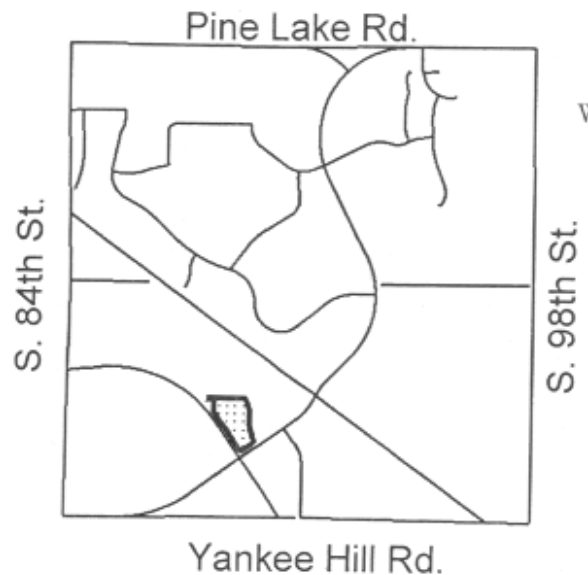
Comp. Plan Conformance #03000

91st & Hwy #2

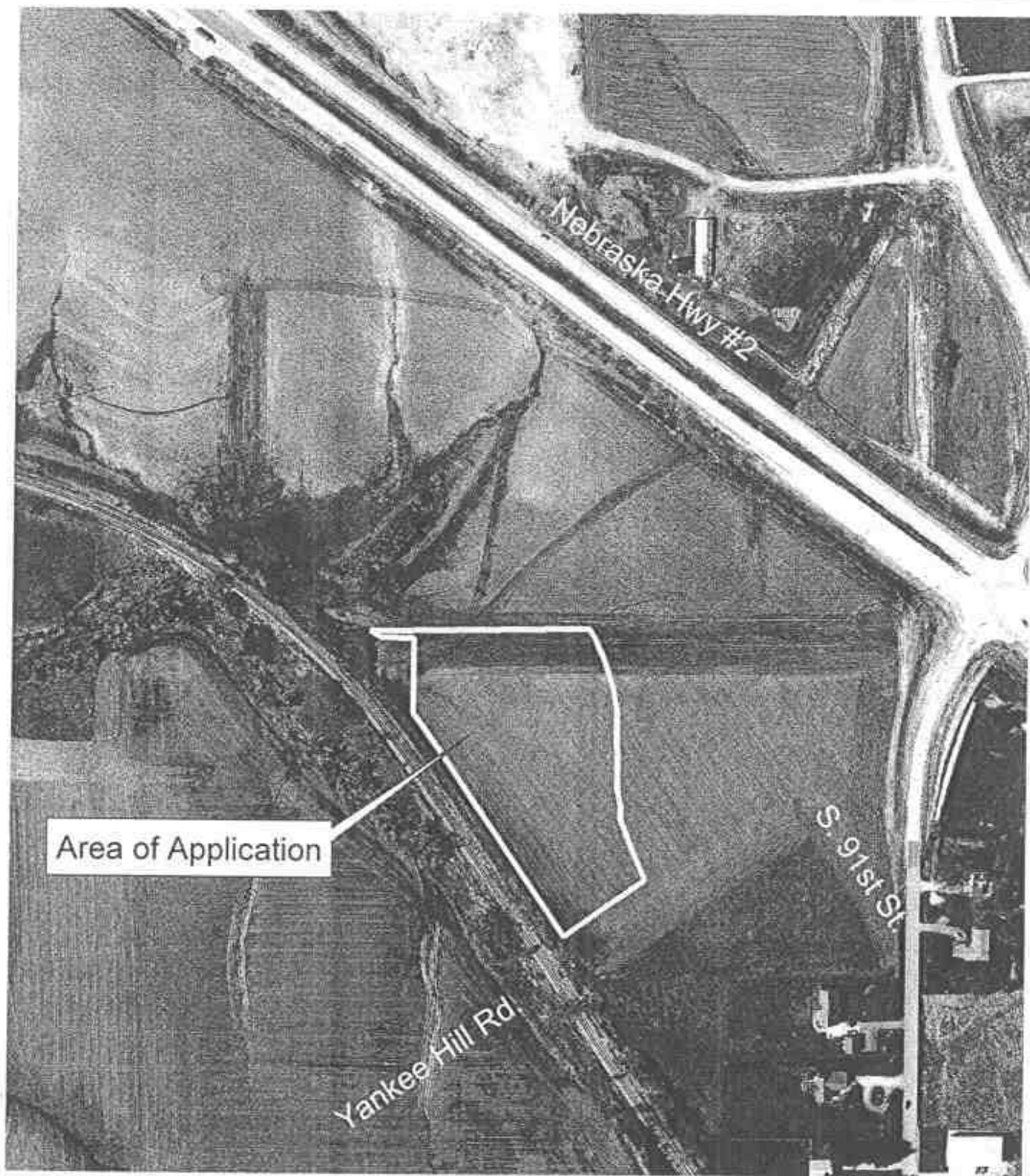
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 23 T9N R7E



004



Comp. Plan Conformance #03000
91st & Hwy #2

m:\plan\arcview\03_cp\cp03000a



005

Lincoln City - Lancaster County Planning Dept.
1999 Aerial

CHARLES THONE
DONALD H. ERICKSON
DANIEL D. KOUKOL
WM. E. MORROW, JR.
SAM JENSEN
DANIEL B. KINNAMON
THOMAS J. GUILFOYLE
VIRGIL K. JOHNSON
CHARLES V. SEDERSTROM
CHARLES D. HUMBLE
MICHAEL C. WASHBURN
ALAN M. WOOD
WILLIAM F. AUSTIN
JOHN C. BROWNRIGG
THOMAS J. CULHANE
RICHARD J. GILLOON
SAMUEL E. CLARK
GARY L. HOFFMAN
MARK M. SCHORR

LAW OFFICES
ERICKSON & SEDERSTROM, P.C.

A LIMITED LIABILITY ORGANIZATION

SUITE 400
301 SOUTH 13TH STREET
LINCOLN, NEBRASKA 68508-2571
TELEPHONE (402) 476-1000
FACSIMILE (402) 476-6167

WRITER'S INTERNET ADDRESS

humble@eslaw.com

JERALD L. RAUTERKUS
WILLIAM T. FOLEY
PATRICK R. GUINAN
JOHN B. MORROW
TRAVIS A. GINEST
MICHELLE B. MILLER
TIERNAN T. SIEMS
PAUL D. HEIMANN
KRISTINE J. GATES
TRENT J. MARTINET

OF COUNSEL

DAVID C. MUSSMAN
ROLAND J. SANTONI
DAVID J. NIELSEN

OMAHA OFFICE
10330 REGENCY PARKWAY
DRIVE, SUITE 100
OMAHA, NEBRASKA 68114
(402) 397-2200

January 17, 2003

HAND DELIVERED

Brian Will, Planner
Lincoln-Lancaster County Planning Department
555 South 10th Street, Suite 213
Lincoln, NE 68508

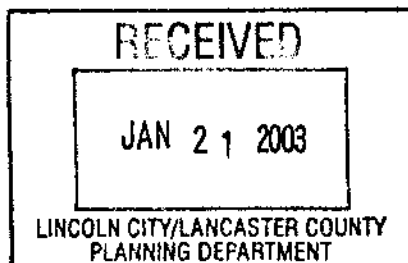
Re: LES-Comprehensive Plan Conformance, 91st and Highway 2
Our File No.: 10114.44312

Dear Brian:

I am the applicant, on behalf of Lincoln Electric System, in connection with its Application for Comprehensive Plan Conformance of a tract of land of approximately 3.94 acres which it is acquiring at 91st Street near Highway 2 for an LES substation.

The acquisition of the site at 91st and Highway 2 will be accomplished through an exchange of property (see attachment). LES acquired a tract of land of approximately 3.63 acres legally described as Lot 83 IT in the Southwest Quarter of Sec. 23, T9N, R7 East of the 6th P.M., Lancaster County, several years ago for a future substation site (existing LES substation property). Due to the development which is occurring in the area, such as Appian Way Regional Center and Appian Way Regional Center First Addition and the location of an LES transmission line, LES determined that it would be more advantageous for it to exchange its existing substation property for the proposed substation property. The new site is located approximately 750 feet east of the existing LES site.

I shall refer to the new site as the proposed LES substation property. The proposed LES substation property consists of three tracts of land which are all legally described on the attachment as Tract 1, Tract 2, and Tract 3. As far as LES is concerned, the proposed exchange is revenue neutral with LES neither being required to pay additional compensation for the tract nor will LES receive any additional compensation for its tract.



Brian Will, Planner

Page 2

January 17, 2003

Due to the rapid expansion of the surrounding area, it is imperative that LES commence construction of its substation on its relocated site in March 2003 in order to make the substation operational as soon as possible and meet the increased demand for electricity in this area.

Very truly yours,

A handwritten signature in cursive script that reads "Charles D. Humble".

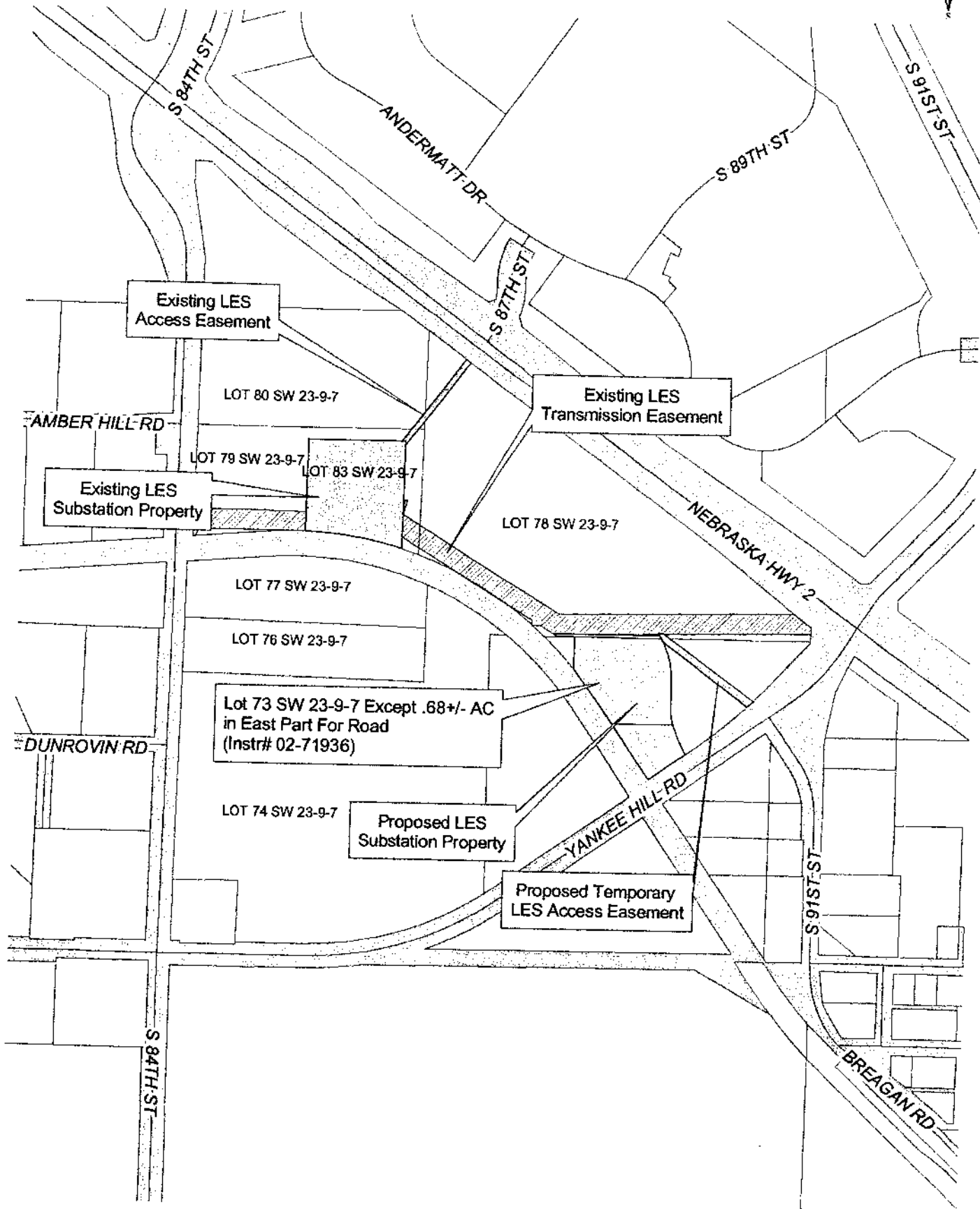
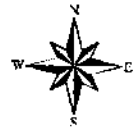
Charles D. Humble

CDH:rjj

Enclosures

c: Rick Peo
Dennis Bartels
Douglas L. Curry, Esq.
Dan Pudenz
Steve Hanks

Proposed Substation Relocation



INDIVIDUAL TRACT LEGAL DESCRIPTIONS

LEGAL DESCRIPTION - TRACT 1

A TRACT OF LAND IN LOT 73, IRREGULAR TRACT, IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT OF WAY LINE OF THE OMAHA PUBLIC POWER DISTRICT'S RAILROAD LINE AND THE NORTHWESTERLY LINE OF THE RELOCATED YANKEE HILL ROAD RIGHT OF WAY; THENCE N 34°41'32" W (ASSUMED BEARING), ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF THE OMAHA PUBLIC POWER DISTRICT'S RAILROAD LINE, A DISTANCE OF 273.77 FEET; THENCE N 89°58'00" E, A DISTANCE OF 266.26 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF FUTURE AMBER HILL ROAD AND A POINT ON A 283.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST; THENCE, ALONG SAID CURVE AND SAID WESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 09°56'44", AN ARC LENGTH OF 49.12 FEET, THE CHORD OF SAID CURVE BEARS S 19°42'42" E, A DISTANCE OF 49.06 FEET; THENCE S 24°41'05" E, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 76.15 FEET TO A POINT ON SAID NORTHWESTERLY LINE OF THE RELOCATED YANKEE HILL ROAD RIGHT OF WAY; THENCE S 55°19'02" W, ALONG SAID NORTHWESTERLY LINE OF THE RELOCATED YANKEE HILL ROAD RIGHT OF WAY, A DISTANCE OF 183.10 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 41594.46 SQUARE FEET, 0.86 ACRES, MORE OR LESS.

LEGAL DESCRIPTION - TRACT 2

A TRACT OF LAND IN LOT 73, IRREGULAR TRACT, IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE INTERSECTION OF THE NORTHEASTERLY RIGHT OF WAY LINE OF THE OMAHA PUBLIC POWER DISTRICT'S RAILROAD LINE AND THE NORTHWESTERLY LINE OF THE RELOCATED YANKEE HILL ROAD RIGHT OF WAY; THENCE N 34°41'32" W (ASSUMED BEARING), ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF THE OMAHA PUBLIC POWER DISTRICT'S RAILROAD LINE, A DISTANCE OF 273.77 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 34°41'32" W, ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 135.10 FEET TO THE POINT OF CURVATURE OF A 1494.43 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHWEST; THENCE, ALONG SAID CURVE AND SAID NORTHEASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 04°24'09", AN ARC LENGTH OF 114.83 FEET, THE CHORD OF SAID CURVE BEARS N 36°53'36" W, A DISTANCE OF 114.80 FEET; THENCE N 00°02'00" W, A DISTANCE OF 146.74 FEET TO A POINT ON THE SOUTHERLY LINE OF LOT 78 LT.; THENCE N 89°58'00" E, ALONG THE SOUTHERLY LINE OF SAID LOT 78 LT., A DISTANCE OF 356.83 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF FUTURE AMBER HILL ROAD AND A POINT ON A 331.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE, ALONG SAID CURVE AND SAID WESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 30°31'03", AN ARC LENGTH OF 176.30 FEET, THE CHORD OF SAID CURVE BEARS S 15°17'32" E, A DISTANCE OF 174.22 FEET; THENCE S 00°02'00" E, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 109.79 FEET TO A POINT ON A 283.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST; THENCE, ALONG SAID CURVE AND SAID WESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 14°42'21", AN ARC LENGTH OF 72.64 FEET, THE CHORD OF SAID CURVE BEARS S 07°23'10" E, A DISTANCE OF 72.44 FEET; THENCE S 89°58'00" W, A DISTANCE OF 266.26 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 123382.42 SQUARE FEET, 2.83 ACRES, MORE OR LESS.

LEGAL DESCRIPTION - TRACT 3

A TRACT OF LAND IN LOT 78, IRREGULAR TRACT, IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 23, THENCE S 89°58'00" W (ASSUMED BEARING), ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER SAID SECTION 23, A DISTANCE OF 33.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 78; THENCE CONTINUING S 89°58'00" W, ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 611.80 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF FUTURE AMBER HILL ROAD AND A POINT ON A 331.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST AND THE POINT OF BEGINNING; THENCE CONTINUING S 89°58'00" W, ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 424.72 FEET; THENCE N 59°00'27" W, A DISTANCE OF 22.10 FEET TO A CORNER OF AN EXISTING LINCOLN ELECTRIC SYSTEM TRANSMISSION LINE EASEMENT RECORDED AS INSTRUMENT #95-12607 AT THE LANCASTER COUNTY REGISTER OF DEEDS; THENCE N 89°01'14" E, ALONG THE SOUTHERLY LINE OF SAID L.E.S. TRANSMISSION LINE EASEMENT, A DISTANCE OF 431.95 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF FUTURE AMBER HILL ROAD AND A POINT ON A 331.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE, ALONG SAID CURVE AND SAID WESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 03°47'55", AN ARC LENGTH OF 21.95 FEET, THE CHORD OF SAID CURVE BEARS S 32°27'03" E, A DISTANCE OF 21.94 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 8463.13 SQUARE FEET, 0.15 ACRES, MORE OR LESS.

CHARLES THONE
DONALD H. ERICKSON
DANIEL D. KOUKOL
WM. E. MORROW, JR.
SAM JENSEN
DANIEL B. KINNAMON
THOMAS J. GUILFOYLE
VIRGIL K. JOHNSON
CHARLES V. SEDERSTROM
CHARLES D. HUMBLE
MICHAEL C. WASHBURN
ALAN M. WOOD
WILLIAM F. AUSTIN
JOHN C. BROWNRIGG
THOMAS J. CULHANE
RICHARD J. GILLOON
SAMUEL E. CLARK
GARY L. HOFFMAN
MARK M. SCHORR

LAW OFFICES
ERICKSON & SEDERSTROM, P.C.

A LIMITED LIABILITY ORGANIZATION

SUITE 400
301 SOUTH 13TH STREET
LINCOLN, NEBRASKA 68508-2571
TELEPHONE (402) 476-1000
FACSIMILE (402) 476-6167

WRITER'S INTERNET ADDRESS

humble@eslaw.com

JERALD L. RAUTERKUS
WILLIAM T. FOLEY
PATRICK R. GUINAN
JOHN B. MORROW
TRAVIS A. GINEST
MICHELLE B. MILLER
TIERNAN T. SIEMS
PAUL D. HEIMANN
KRISTINE J. GATES
TRENT J. MARTINET

OF COUNSEL

DAVID C. MUSSMAN
ROLAND J. SANTONI
DAVID J. NIELSEN

OMAHA OFFICE
10330 REGENCY PARKWAY
DRIVE, SUITE 100
OMAHA, NEBRASKA 68114
(402) 397-2200

January 23, 2003

Hand Delivered

Ernest R. Peo III
Chief Assistant City Attorney
City Attorney's Office
Justice and Law Enforcement Center
575 South 10th Street, Suite 4201
Lincoln, NE 68508

Re: LES/91st and Highway 2 Substation Site/Exchange
Our File No.: 10114.44312

Dear Rick:

The City of Lincoln, Nebraska, a municipal corporation, d/b/a Lincoln Electric System, acquired a tract of land several years ago legally described as Lot 83 of Irregular Tracts in the Southwest Quarter of Section 23, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, for a future substation site. The area surrounding the LES site is proposed to be developed as the Appian Way Regional Center First Addition and the site plan from the developers showed that the LES site would be right in the middle of that Addition. LES determined that it would be more advantageous to relocate its substation site approximately 750 feet to the east of its present location as access to the relocated site would be more advantageous for LES. The current LES site is 3.63 acres more or less, and the relocated LES substation site is 3.94 acres more or less.

LES is exchanging its current site for Tract 1 and Tract 2 (legally described on the attachment), which are owned by Alan Baade and Laurel Baade, husband and wife, Jodi L. Sims and Loren Sims, wife and husband, Douglas J. Blanc and Kathleen Blanc, husband and wife, and Margene Zachek, a single person, (hereinafter "Baade Group"). In addition, Eiger Corp. a Nebraska corporation, (hereinafter "Eiger"), in consideration of the relocation of certain LES transmission line structures will convey Tract 3 (legally described on the attachment) to LES to complete the LES substation site. LES obtained an independent limited scope appraisal of the parcels involved in the above-described exchange, which concluded that the exchange involved

Ernest R. Peo III

Page 2

January 23, 2003

tracts of nearly identical value so that no money will exchange hands. On January 17, 2003, the LES Board by Resolution approved the exchange.

The rapid expansion of the immediate area around the LES substation site, including Appian Way Regional Center, the new Heart Hospital, and other developments, requires LES to immediately move forward to commence construction on the new substation site in March 2003. Since LES is required to engage in public competitive bidding for such construction, it is imperative to have approval of this exchange as soon as possible. The Planning Commission will have public hearing and vote on this matter on February 5, 2003. LES is requesting introduction of the ordinance approving the exchange on February 3, 2003. The Planning Department has indicated that it can have the report to City Council prior to the public hearing on February 10, 2003. Due to the fact that the City Council will not be in session on Presidents' Day on February 17, 2003, and the fact that there is a 15-day waiting period before an ordinance becomes effective, LES is respectfully requesting that the City Council grant second and third readings on February 10, 2003. If the Council so consents, the ordinance would be effective 15 days after its passage and publication, which would allow LES and the other parties to close this transaction immediately thereafter. It is my understanding from our telephone conference of today that the Law Department would not look favorably upon a request to waive the 15-day waiting period as the same does not, in the opinion of the Law Department, rise to the level of an emergency.

Thank you for your cooperation with LES in this very important matter.

Very truly yours,


Charles D. Humble

CDH:rjj

Attachment

c: Jonathan Cook
Brian Will
Douglas L. Curry, Esq.
Dan Pudenz
Steve Hanks